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NO. 580

P. 1

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FACSIMILE COVER SHEET

DATE: August 23, 2006

TO: Examiner BELIVEAU, Scott **FAX NO.:** 571-273-8300
E. USPTO GPAU 2623

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE: **U.S. App. No.:** 10/696,395, filed October 29, 2003

Applicant(s): Larry B. Pearson, et al.

Atty Dkt No.: 1033-MS1001

Title: SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION

NO. OF PAGES (including Cover Sheet): 10

MESSAGE:

Attached please find:

- ☒ Transmittal Form (1 pg)
- ☒ Notice of Appeal (in duplicate) (2 pgs)
- ☒ Pre-Appeal Brief Request for Review (1 pg)
- ☒ Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/696,395
	Filing Date	October 29, 2003
	First Named Inventor	Larry B. Pearson, et al.
	Art Unit	2623
	Examiner Name	BELIVEAU, Scott E.
	Attorney Docket Number	1033-MS1001
Total Number of Pages in This Submission		10

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Pre-Appeal Brief Request for Review Remarks in Support of the Pre-Appeal Brief Request for Review
Remarks CUSTOMER NO.: 60533		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Toler Schaffer, L.L.P.		
Signature			
Printed name	Jeffrey G. Toler		
Date	8-23-2006	Reg. No.	38,342

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Signature	
Typed or printed name	Deirdre Waters
Date	8-23-06

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1033-MS1001	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name <u>Deirdre Waters</u>		Application Number 10/696,395	Filed October 29, 2003
		First Named Inventor Larry B. Pearson, et al.	
		Art Unit 2623	Examiner BELIVEAU, Scott E.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		_____ Signature Jeffrey G. Toler _____ Typed or printed name _____ Telephone number 512-327-5515 _____ Date 8-23-2006	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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AUG 23 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Larry B. Pearson, et al.

Title: SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION

App. No.: 10/696,395

Filed: October 29, 2003

Examiner: BELIVEAU, Scott E.

Group Art Unit: 2623

Customer No.: 60533

Confirmation No.: 6395

Atty. Dkt. No.: 1033-MS1001

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**REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed on July 11, 2006 (hereinafter, "the Final Office Action"), Applicants file herewith a Notice of Appeal and a Pre-Appeal Brief Request for Review and requests review of the following issues:

Applicants respectfully traverse the rejection of independent claims 1, 20, and 40 under 35 U.S.C. § 103(a) over U.S. Pat. No. 6,978,474 ("Sheppard") in view of U.S. Pat. Pub. No. 2005/0251827 ("Ellis") at page 4, paragraph 5 of the Final Office Action. Applicants also respectfully traverse the rejection of independent claim 29 under 35 U.S.C. § 103(a) over Sheppard in view of Ellis and further in view of U.S. Patent Pat. Pub. No. 2002/0078442 ("Reyes") at page 14, paragraph 8 of the Final Office Action.

1. INDEPENDENT CLAIM 1 IS ALLOWABLE

Independent claim 1 recites "a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user." Regarding this element of claim 1, the Final Office Action states that Sheppard discloses particular televisions each associated with or assigned radio frequencies. *Final Office Action*, p. 5. However, as the Final

Office Action notes, Sheppard fails to disclose the existence of frequency bands being associated with particular users. *Final Office Action*, p. 5. To overcome this deficiency in Sheppard, the Final Office Action turns to Ellis, stating that Ellis discloses a video distribution system wherein a plurality of users within a household are associated with a plurality of television. *Final Office Action*, p. 5.

In fact, Ellis does not disclose or suggest a video distribution system wherein a plurality of users within a household are associated with a plurality of television. Rather, Ellis discloses a video distribution system wherein a plurality of televisions are associated with particular locations. For example, in Figures 11, 13, 14, 17, 18a, 18b, 19, 21, 23, 24 27, 28, 31, 32, and 33, and the descriptions thereof, Ellis consistently refers to televisions as assigned to locations. Particularly telling are Figures 31 and 11 which include set up screens allowing a user to assign a television to a location and to name the location. *See Ellis*, ¶ [0092].

Additionally, the names given to the rooms in Ellis are arbitrary. *Id.* Thus, the room labeled "Guest Room" in Ellis, could have been given any name, such as "Northeast Corner Bedroom" or "Room 2" without changing the function of Ellis. This point is further illustrated by Figure 11 where one of the locations is named "Living Room", which is clearly not a name intended to associate a television with a user, but rather to associate the television with a location. Nowhere does Ellis disclose associating a television to a particular user. Claim 1 is therefore allowable over the combination of Sheppard and Ellis since the asserted combination does not disclose or suggest each element of claim 1.

Claims 2, 4, 6-10, 34 and 36, which depend from claim 1, were also rejected under the combination of Sheppard and Ellis. Therefore, claims 2, 4, 6-10, 34 and 36 are also allowable at least in light of their dependence from claim 1.

The Final Office Action rejects claims 3, 5, 37 and 38 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. No. 6,762,773 ("Kolde"). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 1. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 1. Furthermore, Kolde also does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Therefore, the

combination of Sheppard, Ellis and Kolde does not disclose or suggest each feature of claims 3, 5, 37 and 38.

The Final Office Action rejects claim 35 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. Pub. No. 2003/0028872 ("Milovanovic"). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 1. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 1. Furthermore, Milovanovic also does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Therefore, the combination of Sheppard, Ellis and Milovanovic does not disclose or suggest each feature of claim 35.

2. INDEPENDENT CLAIM 20 IS ALLOWABLE

Independent claim 20 recites "an assigned frequency block associated with a particular user." The combination of Sheppard and Ellis does not disclose or suggest this feature of claim 20 for at least the same reasons that the combination does not disclose or suggest each feature of claim 1. Claim 20 is therefore allowable. Additionally, claims 22, 24, and 26-28, which are also rejected in view of the combination of Sheppard and Ellis, are allowable at least in light of their dependence from claim 20.

The Final Office Action rejects claim 21 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. No. 6,493,875 ("Eames"). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 20. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 20. Furthermore, Eames also does not disclose or suggest an assigned frequency block associated with a particular user. Therefore, the combination of Sheppard, Ellis and Eames does not disclose or suggest each feature of claim 21.

The Final Office Action rejects claim 23 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of Applicants' Admission of Fact (APA). The alleged APA does not disclose or suggest an assigned frequency block associated with a particular user, and, as discussed above, the combination of Sheppard and Ellis also does not disclose this feature of claim 20. Therefore, the

combination of Sheppard, Ellis and the alleged APA does not disclose or suggest each feature of claim 23.

3. INDEPENDENT CLAIM 29 IS ALLOWABLE

Independent claims 29 recites "linking a plurality of users with associated carrier frequencies." The Final Office Action relies on the combination of Sheppard and Ellis to disclose this feature. The combination of Sheppard and Ellis does not disclose or suggest this feature of claim 29 for at least the same reasons that the combination does not disclose or suggest each feature of claim 1. Additionally, Reyes also does not disclose or suggest this feature. Claims 29 is therefore allowable.

The Final Office Action relies on Reyes to disclose authenticating that the first user is associated with a first carrier frequency as recited in claim 29. *Final Office Action*, p. 5, 2nd ¶. What Reyes actually discloses is using a password to unlock a remote control. *Reyes*, p. 2, ¶[0028]. Using a password to unlock a remote control does not disclose or suggest authenticating that the first user is associated with a first carrier frequency as recited in claim 29. Thus, claim 29 is allowable for this reason as well.

Claims 31-33 and 39 which depend from claim 29, were also rejected under the combination of Sheppard, Ellis and Reyes. Therefore, claims 31-33 and 39 are allowable at least in light of their dependence from claim 29.

4. INDEPENDENT CLAIM 40 IS ALLOWABLE

Independent claim 40 recites "linking a plurality of users with associated carrier frequencies." The combination of Sheppard and Ellis does not disclose or suggest this feature of claim 40 for at least the same reasons that the combination does not disclose or suggest each feature of claim 1. Claim 40 is therefore allowable.

The Final Office Action rejects claim 41 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. Pub. No. 2002/0078442 ("Reyes"). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 40. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 40. Furthermore, Reyes also does not disclose or suggest linking a plurality of users with associated carrier frequencies.

Therefore, the combination of Sheppard, Ellis and Reyes does not disclose or suggest each feature of claim 41.

The Final Office Action rejects claim 42 under 35 U.S.C. § 103(a) over Sheppard, Ellis and Reyes in view of U.S. Pat. No. 6,785,901 ("Horiwitz"). In making this rejection, the Final Office Action relies on Sheppard, Ellis, and Reyes to disclose the features of claim 41. As discussed above, the combination of Sheppard, Ellis and Reyes does not disclose each feature of claim 41. Furthermore, Horiwitz also does not disclose or suggest linking a plurality of users with associated carrier frequencies. Therefore, the combination of Sheppard, Ellis, Reyes and Horiwitz does not disclose or suggest each feature of claim 41.

CONCLUSION

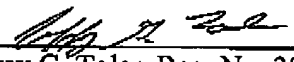
For the aforementioned reasons, claims 1, 20, 29 and 40 are believed to be patentable over the prior art of record. Claims 2-10, 21-24, 26-28, 31-39, 41, and 42 are dependent claims which depend from one of claims 1, 20, 29, or 40. Claims 2-10, 21-24, 26-28, 31-39, 41, and 42 are thus allowable as dependent claims depending from allowable independent claims.

It is respectfully submitted that the pending claims are in condition for allowance, and favorable action with respect to the present application is requested.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

8-23-2006
Date


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